McGuireWoods LLP
1301 Gervais Street
Suite 1050
Columbia, SC 29201
Phone: 803.251.2300
Fax: 803.251.2315
www.mcguirewoods.com

Michael J. Anzelmo
Direct: 803.251.2313

McGUIREWOODS

manzelmo@mcguirewoods.com

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Via Electronic Filing

Jocelyn G. Boyd, Esquire
Chief Clerk and Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

Re: Public Service Commission Review of South Carolina Code of Regulations Chapter 103 Pursuant to S.C. Code Ann. Section 1-23-120(J)
Docket No. 2020-247-A

Dear Ms. Boyd,

Dominion Energy South Carolina, Inc. ("DESC" or "Company") appreciates the opportunity to submit comments to the Public Service Commission of South Carolina ("Commission") regarding Article 8 of the Commission's rules and regulations which establishes the standards of proper practice and procedure before the Commission. Soliciting comments from the entities and practitioners appearing before the Commission will provide valuable insight and experiences to assist the Commission as it considers whether to update Article 8. Below are DESC's comments, and the Company intends to participate in the Commission's workshop scheduled for February 19, 2021.

The Company's first comment addresses Reg. 103-833 entitled "Written Interrogatories and Request for Production of Documents and Things". As written, a tension exists among the time when discovery can be propounded, the response deadline to interrogatories and requests for production, and the commencement date of the hearing that allows for discovery to be conducted for purposes other than eliciting information that would be useful in the hearing on the pending matter. The regulation currently allows service of interrogatories and/or requests for production to be made not "less than 10 days prior to the date assigned for commencement of the hearing." Reg. 103-833(B), (C). The responding party, however, has "20 days after service" to serve its response.[1] The party propounding discovery 10 days prior to the hearing–or for that matter any time after 20 days prior to the hearing—is doing so knowing that it will likely not have access to

[1] Rule 33 of the South Carolina Rules of Civil Procedure allow parties 30 days to respond to interrogatories and requests for production. The Commission has already shortened the party's allowed response time to 20 days, and it would be unreasonable to shorten the response time further and would place and undue burden on parties responding to discovery.

the information and evidence at the commencement of the hearing or even, in most cases, after the hearing is completed. In short, as currently drafted, the regulation is ripe for parties to engage in data mining in an effort to obtain information to which it may not otherwise be entitled. Requiring responses to such requests can be burdensome and wastes the time and resources of the responding party by requiring it to provide information that will not be used in the pending matter. A simple fix would be to amend Reg. 103-833(B) and (C) to require a party to serve any interrogatories and requests for production not "less than **20** days prior to the date assigned for commencement of the hearing." Responses would then be due no later than the start of the hearing.

Likewise, the Company suggests that the Commission require that motions (except those made during hearings) be served "at least **15** days prior to commencement of the hearing." Reg. 103-829 entitled "Motions" currently allows a party to file and serve a motion "at least 10 days prior to commencement of the hearing" and responses to the motion served ten days after service. Reg. 103-829(A). The reply, however, can be served "within five days after service of the response." Id. Similar to the issue with discovery, the reply can be filed after commencement of the hearing, which could deprive the Commission of the opportunity to address the motion before hearing. For instance, the Commission would be well-suited to address motions to limit evidence in advance of the hearing in order to streamline the matter and not waste time by having the parties submit the testimony, cross-examination, and Commission questions on matters that are inadmissible. By moving the initial deadline to file and serve the motion to "at least 15 days prior to commencement of the hearing" that conflict would be resolved and allow the Commission to have the motion, the response, and the reply at the start of the hearing in order to rule should it so desire.

The Company also offers an edit to Reg. 103-830.1 entitled "Service Between Parties of Record" to accommodate modern practice and procedure before the Commission. The rule authorizes service by e-mail between the parties but only "[u]pon written agreement of all parties." Reg. 103-830.1. Common practice establishes that all parties and intervenors once granted party status by the Commission sign these e-service agreements. The Company believes that the process can be streamlined and the paperwork associated with the agreements eliminated. Reg. 103-830.1 can be revised to automatically authorize e-service on any party once that party enters its appearance in the docket and on each intervenor, if any, once granted party status by the Commission. For example, revised Reg. 103-830.1 could state:

> Upon a notice of appearance by a party in a docket or, in the case of an intervenor, the filing of a motion to intervene, service of filings made in a docket at the commission shall be made through e-mail or electronic service. The appearance of a party or the filing of a motion to intervene in the docket evidences the consent of the party or intervenor to accept service by e-mail or electronic service. The notice of appearance filed by the party or intervenor shall include an e-mail address to receive electronic service of filings.

At a minimum the Commission should revise the regulation to not require the written agreement of "all parties" before electronic service can be used. Any parties agreeing to electronic service between or among themselves should be allowed to do so even if other traditional methods of service are required to perfect service upon another party who does not wish to agree to electronic service.

Lastly, Reg. 103-836 could be revised to confirm the availability of conducting hearings by virtual or other remote means. Revised Reg. 103-836 could read: "The Commission will assign a time and place for hearing and shall give notice thereof as required by law. The Commission is authorized to conduct such hearings virtually or by other remote means as needed."

The Company appreciates consideration of its comments by the Commission and looks forward to the continued dialogue for possible revisions to Article 8. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

s/ *Michael J. Anzelmo*

Michael J. Anzelmo
Counsel for Dominion Energy South Carolina, Inc.

cc: K. Chad Burgess, Esquire and Matthew W. Gissendanner, Esquire